

AMENDED IN ASSEMBLY APRIL 21, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1544

Introduced by Assembly Member Granlund

February 26, 1999

~~An act to add Part 3 (commencing with Section 71100) to Division 34 of the Public Resources Code, relating to leaf~~ *An act to add Chapter 11.5 (commencing with Section 21900) to Division 8 of the Business and Professions Code, relating to leaf blowers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1544, as amended, Granlund. Leaf blowers.

Existing law provides for the regulation of specified businesses and regulations and provides for certain special business regulations.

This bill would require a city, including a chartered city, county, or city and county, that proposes to adopt an ordinance that regulates the commercial use of leaf blowers, to contract with an independent entity to perform an assessment of the economic impact of the proposed ordinance. The bill would also require the governing body to prepare an initial statement of reasons for proposing the ordinance and, prior to adopting the ordinance, to prepare a final statement of reasons for the adoption. The bill would provide that an ordinance adopted on or before January 1, 2000, that places a complete prohibition on the use of leaf blowers may not be enforced unless the ordinance was

adopted in compliance with the bill or unless it was enacted by the electors of a city, including a chartered city, county, or a city and county by initiative measure. The bill would provide that an ordinance adopted prior to January 1, 2000, that regulates the commercial use of leaf blowers, and that was not adopted in compliance with the bill or enacted by the electors of a city, including a chartered city, county, or city and county by initiative measure shall not be enforced, except to the extent that it meets specified requirements.

~~Existing law contains legislative findings and declarations that provide that the State of California has a responsibility to protect the health and welfare of its citizens by the control, prevention, and abatement of noise.~~

~~This bill would require the California Environmental Protection Agency to oversee the regulation of leaf blowers and to review all regulatory measures adopted by any state agency or city or county regulating leaf blowers. The bill would require the agency to convene a leaf blower task force, as specified, to develop a model ordinance that a governing body of a city or county may adopt for the purpose of regulating the use of leaf blowers and to develop or adopt a program, as provided, to train and certify gardeners with respect to the responsible use of a leaf blower.~~

~~The bill would provide that the governing body of a city, including a chartered city, or a county, that proposes to adopt an ordinance or other regulatory measure that would prohibit or restrict the commercial use of a leaf blower between the hours of 8 a.m. and 6 p.m. on weekdays, shall contract with an independent entity to perform a socioeconomic assessment of the impact of the proposed ordinance or other regulatory measure on any commercial entity or public agency that uses a leaf blower within the jurisdiction. The bill would require the proposed regulation or other regulatory measure to be adopted in accordance with specified procedures.~~

~~The bill would prohibit the governing body of a city, including a chartered city, or county from establishing a noise limitation on leaf blowers consistent with a noise level standard that is greater than 65 dBA. The bill would provide, however, that a noise level standard of 65 dBA or lower may~~



~~be established if the governing body makes a specified determination.~~

~~The bill would establish a rebuttable presumption that an ordinance or other regulatory measure that prohibits the commercial use of a leaf blower within the jurisdiction of a city or county between 8 a.m. and 6 p.m. on weekdays, that is not adopted as required by the bill, creates an economic injury to any person operating a commercial enterprise within the city or county who suffers economic injury as a result of the prohibition.~~

The bill would provide legislative findings and declarations with respect to its provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~—no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Part 3 (commencing with Section~~

2 ~~SECTION 1. The Legislature finds and declares that~~
3 ~~local ordinances that prohibit or restrict the commercial~~
4 ~~use of leaf blowers may have significant detrimental~~
5 ~~economic effects on many communities, including the~~
6 ~~following:~~

7 ~~(a) Additional taxpayer cost for maintaining public~~
8 ~~parks and recreational facilities and cleaning-up public~~
9 ~~streets, sidewalks, and parking lots.~~

10 ~~(b) Additional cost to residential users of gardening~~
11 ~~and landscape maintenance services, which costs could~~
12 ~~fall particularly hard on the fixed income elderly and~~
13 ~~disabled population.~~

14 ~~(c) Loss of income to businesses that provide~~
15 ~~gardening and landscaping services and loss of jobs to~~
16 ~~persons employed in the gardening and landscaping~~
17 ~~industries.~~

18 ~~SEC. 2. The Legislature further finds and declares~~
19 ~~that it is a matter of statewide concern that local public~~
20 ~~agencies fully consider the economic impact of leaf~~
21 ~~blower prohibitions on taxpayers and consumers and on~~
22 ~~employment opportunities before adopting any~~
23 ~~ordinance that would prohibit their use.~~

1 SEC. 3. Chapter 11.5 (commencing with Section
2 21900) is added to Division 8 of the Business and
3 Professions Code, to read:

4
5 CHAPTER 11.5 LEAF BLOWERS
6

7 21900. As used in this chapter, the following terms
8 have the following meanings:

9 (a) "Governing body" means the governing body of a
10 local agency.

11 (b) "Local agency" means a city, including a
12 chartered city, county, and city and county.

13 21901. The governing body of a local agency that
14 proposes to adopt an ordinance that regulates the
15 commercial use of leaf blowers shall comply with both of
16 the following requirements:

17 (a) Prior to adoption of the ordinance, the governing
18 body shall contract with an independent entity to
19 perform an assessment of the economic impact of the
20 proposed ordinance on local taxpayers and consumers
21 and on employment opportunities within the jurisdiction
22 of the local agency.

23 (b) The governing body shall prepare and make
24 available to the public an initial statement of reasons for
25 proposing the ordinance. This statement shall include,
26 but not be limited to, all of the following:

27 (1) A statement of the specific purpose of the
28 ordinance and the rationale for the governing body's
29 determination that the ordinance is justified by the
30 benefit to human health, public safety, public welfare, or
31 the environment. If the proposed ordinance mandates
32 the use of specific technologies or equipment, the
33 governing body shall include a statement of the reasons
34 why the governing body believes these mandates are
35 required.

36 (2) The identification of each technical, theoretical,
37 and empirical study, report, or similar document, if any,
38 upon which the governing body relies in proposing the
39 ordinance.

1 (3) A description of the alternatives to the regulation
2 considered by the governing body and the reasons for
3 rejecting those alternatives. In the case of an ordinance
4 that mandates the use of specific technologies or
5 equipment or prescribes specific actions or procedures,
6 the imposition of a performance standard shall be
7 considered an alternative.

8 (4) A description of any alternative identified by the
9 governing body that would lessen any adverse impact on
10 small business.

11 (5) Facts, evidence, documents, testimony, or other
12 evidence upon which the governing body relies to assess
13 any adverse economic impact on business enterprises,
14 including, but not limited to, the extent that the proposed
15 ordinance may affect the creation or elimination of jobs
16 within the jurisdiction and the creation, expansion, or
17 elimination of businesses within the jurisdiction.

18 21902. The governing body shall permit public
19 comment on the proposed ordinance for a minimum
20 period of 45 days from the date the initial statement of
21 reasons is made available to the public. Prior to final
22 adoption of the ordinance, the governing body shall make
23 a determination that the ordinance is reasonably
24 necessary to achieve the purpose identified pursuant to
25 paragraph (1) of subdivision (b) of Section 21901 and
26 shall prepare a final statement of reasons for adopting the
27 ordinance that includes all of the following:

28 (a) An update of the information contained in the
29 initial statement of reasons. If the update identifies any
30 data or any technical, theoretical, or empirical study,
31 report, or similar document on which the governing body
32 is relying that was not identified in the initial statement
33 of reasons or that was not made available for public
34 review prior to the close of the public comment period,
35 the public comment period shall be extended for an
36 additional 30 days.

37 (b) A summary of each objection or recommendation
38 made regarding the ordinance, together with an
39 explanation of how the proposed ordinance has been
40 revised to accommodate each objection or

1 *recommendation or the reasons for not revising the*
2 *ordinance.*

3 *(c) A determination with supporting information that*
4 *no alternative considered by the governing body would*
5 *be more effective in carrying out the purpose for which*
6 *the ordinance is proposed or would be as effective and*
7 *less burdensome to affected private persons than the*
8 *proposed ordinance.*

9 *(d) An explanation setting forth the reasons for*
10 *rejecting any proposed alternative that would lessen any*
11 *adverse economic impact of the ordinance on small*
12 *business and employment.*

13 *21903. Any interested person may obtain a judicial*
14 *declaration as to the validity of any leaf blower ordinance*
15 *by bringing an action for declaratory relief in the superior*
16 *court. The ordinance may be declared invalid if the*
17 *governing body's determination that the ordinance is*
18 *reasonably necessary is not supported by substantial*
19 *evidence, as determined by the court, or if the governing*
20 *body fails to comply with this chapter.*

21 *21904. An ordinance adopted by a local agency prior*
22 *to January 1, 2000, that places a complete prohibition on*
23 *the commercial use of leaf blowers may not be enforced*
24 *against any person unless it was adopted in accordance*
25 *with the procedures set forth in Sections 21901 and 21902*
26 *or was enacted by the electors of a local agency by*
27 *initiative measure.*

28 *21905. An ordinance adopted by a local agency prior*
29 *to January 1, 2000, that regulates the commercial use of*
30 *leaf blowers, and that was not adopted in accordance with*
31 *the procedures set forth in Sections 21901 and 21902 or*
32 *enacted by the electors of a local agency by initiative*
33 *measure may not be enforced, except to the extent that*
34 *it does any of the following:*

35 *(a) Regulates the manner of use of leaf blowers,*
36 *including, but not limited to, the imposition of restrictions*
37 *on blowing and disposal of debris onto adjoining property*
38 *or into public streets, sidewalks, or gutters.*

39 *(b) Establishes a noise level standard for leaf blowers,*
40 *provided that at least two manufacturers offer for sale*

1 within the state, models that comply with the noise level
2 standard.

3 (c) Regulates the hours of use of leaf blowers, provided
4 that leaf blowers may be operated for a minimum of 10
5 hours per day on weekdays and 8 hours per day on
6 weekends.

7 21906. It is the intent of the Legislature to occupy the
8 whole field of regulation of the commercial use of leaf
9 blowers as provided in this chapter; and, except as
10 provided in this chapter, this chapter shall be exclusive of
11 all local regulation by a local agency of the commercial
12 use of a leaf blower.

13 ~~71100) is added to Division 34 of the Public Resources~~
14 ~~Code, to read:~~

15
16 **PART 3. LEAF BLOWERS**

17
18 ~~71100. The California Environmental Protection~~
19 ~~Agency shall oversee the regulation of leaf blowers in this~~
20 ~~state and the agency shall review all regulatory measures~~
21 ~~adopted by any state agency or city or county regulating~~
22 ~~leaf blowers.~~

23 ~~71101. (a) The California Environmental Protection~~
24 ~~Agency shall convene a leaf blower task force that~~
25 ~~includes representatives from both of the following:~~

26 ~~(1) Cities and counties interested in regulating the use~~
27 ~~of leaf blowers.~~

28 ~~(2) Individuals who operate a leaf blower as part of~~
29 ~~their occupation.~~

30 ~~(b) The task force shall do all of the following:~~

31 ~~(1) Develop a model ordinance that the governing~~
32 ~~body of a city or county may adopt for the purpose of~~
33 ~~regulating the use of leaf blowers.~~

34 ~~(2) Develop a program, or adopt an existing program,~~
35 ~~to train and certify gardeners with respect to the~~
36 ~~responsible use of a leaf blower.~~

37 ~~71102. The governing body of a city, including a~~
38 ~~chartered city, or county, that proposes to adopt an~~
39 ~~ordinance or other regulatory measure that would~~
40 ~~prohibit or restrict the commercial use of a leaf blower~~

~~between the hours of 8 a.m. and 6 p.m. on weekdays, shall
comply with both of the following requirements:~~

~~(a) Prior to adoption of the ordinance or other
regulatory measure, the governing body of the city or
county shall contract with an independent entity to
perform a socioeconomic assessment of the impact of the
proposed ordinance or other regulatory measure on any
commercial entity or public agency that uses a leaf
blower within the jurisdiction of the city or county.~~

~~(b) The ordinance or other regulatory measure shall
be adopted in accordance with paragraphs (1) and (2) of
subdivision (a) of Section 11346.2, paragraphs (1) to (5),
inclusive, of subdivision (b) of Section 11346.2, and
Sections 11346.3 to 11347.3, inclusive, of the Government
Code. The terms “agency” and “state agency,” as used in
Sections 11346.2 to 11347.3, inclusive, of the Government
Code, mean, for purposes of this section, a city or county
and the term “regulation,” as used in those sections,
means an ordinance or other regulatory measure. With
respect to any requirement in those sections that
consideration be given to the effect of the impact of the
ordinance or other regulatory measure on business
enterprises and individuals, the city or county shall only
consider that effect within the jurisdiction of the city or
county and, if required, the ability of those businesses and
individuals to compete with businesses and individuals in
other cities or counties.~~

~~71103. No ordinance or other regulatory measure
adopted pursuant to Section 71102 may establish a noise
limitation on leaf blowers consistent with a noise level
standard that is greater than 65 dBA, measured at a
distance of 50 feet in accordance with testing protocol
established by the American National Standard Institute
Standard B 175.2. However, a noise level standard lower
than 65 dBA measured at 50 feet in accordance with that
standard, may be established if the governing body
determines, based upon testing conducted by an
independent testing laboratory, that more than one
manufacturer markets and sells leaf blowers in the state
meeting the proposed lower noise level standard.~~

1 ~~71104. There is a rebuttable presumption affecting~~
2 ~~the burden of producing evidence that an ordinance or~~
3 ~~other regulatory measure that prohibits or restricts the~~
4 ~~commercial use of a leaf blower within the jurisdiction of~~
5 ~~the city or county between the hours of 8 a.m. and 6 p.m.~~
6 ~~on weekdays, that is not adopted as required by this part,~~
7 ~~creates an economic injury to any person operating a~~
8 ~~commercial enterprise within the city or county who~~
9 ~~suffers economic injury as a result of that prohibition. The~~
10 ~~person may file an action to recover treble damages for~~
11 ~~that injury.~~

12 ~~71105. It is the intention of the Legislature to occupy~~
13 ~~the whole field of regulation of the commercial use of leaf~~
14 ~~blowers as provided in this part and, except as provided~~
15 ~~in this part, shall be exclusive of all local regulations~~
16 ~~relating to the regulation of the commercial use of leaf~~
17 ~~blowers by any city, including a chartered city, or county.~~